

THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AVELARDO RIVERA and YASMINE
ROMERO, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

AMAZON WEB SERVICES, INC., a
Delaware corporation,

Defendant.

Case No. 2:22-cv-00269-JHC

**STIPULATED MOTION AND ORDER
FOR EXTENSION OF FACT DISCOVERY
DEADLINE**

**NOTE ON MOTION CALENDAR:
April 26, 2024**

1 Plaintiffs Avelardo Rivera and Yasmine Romero (“Plaintiffs”) and Defendant Amazon
2 Web Services (“AWS” or “Defendant”) (collectively, “the Parties”), by their counsel, stipulate
3 and jointly move to (1) extend the deadline for fact discovery as to the Parties by 45 days to June
4 14, 2024, and (2) extend the deadline for fact discovery as to third parties by 90 days, to July 29,
5 2024. In support of this stipulated motion, the Parties state as follows:

6 1. On January 31, 2024, the Court ordered AWS to produce a list of Rekognition
7 customers, and reopened fact discovery for ninety days, to April 30, 2024. (Dkt. 152.) AWS
8 produced a list of more than 90,000 customer accounts on February 21. On March 12, Plaintiffs
9 moved for leave to serve four additional interrogatories regarding the list, requesting that
10 Amazon (1) identify all customers who made over 50,000 API calls using IndexFaces and/or
11 CompareFaces, (2) provide addresses for those customers, and (3) name any customers which it
12 plans to identify in its opposition to class certification. (Dkt. 165.) On March 26, AWS
13 supplemented the list that it produced on February 21.

14 2. The Court granted Plaintiffs’ motion for leave to serve four additional
15 interrogatories on April 5. (Dkt. 192.) Plaintiffs served the interrogatories the same day, making
16 AWS’s deadline to respond May 6. On April 11, AWS served one interrogatory on Plaintiffs.
17 Plaintiffs’ deadline to respond to that interrogatory is May 13. Both Parties’ response deadlines
18 fall after the current April 30 close of fact discovery.

19 3. On April 22 and April 23, counsel for the Parties conferred via teleconference,
20 and on April 25, reached an agreement over email regarding an extension of time to complete
21 fact discovery.

22 4. The Parties hereby stipulate and agree, subject to Court approval, to (1) a 45-day
23 extension of the fact discovery deadline as to the Parties (to June 14), and (2) a 90-day extension
24 of the fact discovery deadline as to third parties (to July 29).

25 5. Under Federal Rule of Civil Procedure 16(b)(4), “[a] schedule may be modified
26 only for good cause and with the judge’s consent.” Good cause exists here. First, the current fact
27 discovery deadline (April 30) conflicts with the Rule 33 deadlines for the Parties to respond to

the respective outstanding interrogatories. That reason alone establishes good cause for an extension.

6. Second, there is good cause to further extend the fact discovery deadline beyond the interrogatory deadlines—for a total of 45 days for discovery from the Parties and 90 days for discovery from third parties. Plaintiffs will use this additional time to (1) follow up on AWS’s responses to its interrogatories, and then (2) investigate a subset of AWS’s customers identified in AWS’s responses to Plaintiffs’ outstanding interrogatories, which ask AWS to identify high-volume customers of AWS’s Rekognition technology and provide their addresses. (*See* Dkts. 165 at 2, 187 at 4-6). After receiving AWS’s responses, Plaintiffs intend to subpoena a subset of the customers, who may move to quash, move for protective orders, or fail to respond at all, requiring motion practice.

7. Third, the Parties’ requested extension is made in a timely manner—prior to the April 30 deadline—which weighs in favor of modifying the deadlines. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010) (“requests for extensions of time made before the applicable deadline has passed should ‘normally . . . be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party.’”) (quoting 4B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165 (3d ed. 2004)).

8. Accordingly, the Parties request that the scheduling order be modified as follows:

EVENT	CURRENT DEADLINE	PROPOSED DEADLINE
Close of Fact Discovery as to the Parties	April 30, 2024	June 14, 2024
Close of Fact Discovery as to Third Parties	April 30, 2024	July 29, 2024

WHEREFORE, the Parties respectfully request that the Court extend the fact discovery deadline as described above and include these fact discovery deadlines in the Court’s next scheduling order. (*See* Dkt. 196 (the Parties submitting a joint status report which proposes future case deadlines through class certification).)

Respectfully Submitted,

AVELARDO RIVERA and **YASMINE ROMERO**, individually and on behalf of all others similarly situated,

Dated: April 26, 2024

By: /s/ Wright A. Noel
One of Plaintiffs' Attorneys

Wright A. Noel
wright@carsonnoel.com
CARSON NOEL PLLC
20 Sixth Avenue NE
Issaquah, WA 98027
Tel: 425.837.4717
Fax: 425.837.5396

J. Eli Wade-Scott*
ewadescott@edelson.com
Schuyler Ufkes*
sufkes@edelson.com
EDELSON PC
350 North LaSalle Street, 14th Floor
Chicago, Illinois 60654
Tel: 312.589.6370
Fax: 312.589.6378

Philip L. Fraietta*
pfraietta@bursor.com
Alec M. Leslie*
aleslie@bursor.com
Max S. Roberts*
mroberts@bursor.com
BURSOR & FISHER, P.A.
1330 Avenue of the Americas, 32nd Floor
New York, New York 10019
Tel: 646.837.7150
Fax: 212.989.9163

Randall K. Pulliam*
rpulliam@cbplaw.com
Samuel R. Jackson*
sjackson@cbplaw.com
CARNEY BATES AND PULLIAM, PLLC
519 West 7th Street

1 Little Rock, Arkansas 72201
2 Tel: 501.312.8500
3 Fax: 501.312.8505

4 *Admitted *pro hac vice*

5 *Attorneys for Plaintiffs and the Putative Class*

6 **AMAZON WEB SERVICES, INC,**

7 Dated: April 26, 2024

8 By: /s/ Ryan Spear (with authorization)
9 One of Defendant's Attorneys

10 Ryan Spear, WSBA No. 39974
11 RSpear@perkinscoie.com
12 Nicola Menaldo, WSBA No. 44459
13 NMenaldo@perkinscoie.com
14 PERKINS COIE LLP
15 1201 Third Avenue, Suite 4900
16 Seattle, Washington 98101-3099
17 Telephone 206.359.8000
18 Facsimile 206.359.9000

19 *Attorneys for Defendant*
20 *Amazon Web Services Inc.*

LCR 7(e) Certification

I certify that this memorandum contains 697 words, in compliance with the Local Civil Rules.

/s/ Wright A. Noel

ORDER

IT IS SO ORDERED.

DATED this 26th day of April, 2024.

A handwritten signature in black ink, reading "John H. Chun". The signature is written in a cursive, flowing style. The first name "John" is written with a large, stylized "J". The middle initial "H." is written in a smaller, more formal script. The last name "Chun" is written with a large, stylized "C". The signature is positioned above a horizontal line.

JOHN H. CHUN
UNITED STATES DISTRICT JUDGE